IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 607 OF 2004

BETWEEN

Maxi Kujur S/o Ignase Kujur, aged about 36 years, occupation Sub Divisional Officer, Water Resources Sub Division Bhanupratap Pur, District Kanker (CG).

PETITIONER

A N D

1. The State of Chhattisgarh, through the Secretary Water Resources, Department, Mantralay, D.K.S.Building, Raipur, Tehsil and District Raipur (CG).

2. Engineer-in-Chief, Water Resources Department, Sihawa Bhawan, Raipur, Tehsil and District Raipur (CG).

3. Superintending Engineer, Indrawati Pariyojna Mandal, Raipur, Tehsil and District Raipur (CG).

4. Executive Engineer, Water Resources Division, Kanker (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

28

आदेश पत्रक

मामला क्रमांक W.P.No. 607/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06.04.2004

Smt. Renu Kochar, counsel for the petitioner.

Shri Sanjay S. Agrawal, Panel Lawyer for the State

Heard.

By this writ petition filed under Articles 226/227 of the Constitution of India petitioner is challenging the order dated 10.2.2004 (Annexure P-1) whereby the petitioner was placed under suspension under Rule 9(1)(b) of the C. G. Civil Services (Classification, Control and Appeal) Rules 1966.

Learned counsel for the petitioner submits that the petitioner was prosecuted for the offence punishable u/s 354, 323 of IPC, but the offence was compounded and the learned Magistrate on the basis of compromise acquitted the petitioner vide Annexure P-3. However, even after acquittal he was suspended on the ground that the charge sheet has been filed against the petitioner.

Rule 9(1)(b) of M.P.Civil Services (Classification, Control and Appeal) Rules 1966 which relates to suspension is relevant here and quoted below:

> "9.(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government servant under suspension –
> (a) xxx xxx xxx,
> (b) where a case against him in respect of any criminal offence is under inventilation, inquiry or trial:
> [Provided that a Government Servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him:]
>
> Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made."

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(29)

आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	It is pointed out that though the criminal case was filed but the offence has been compounded and the applicant has been acquitted. Thus, in view of the Rule 9(1)(b) the suspension can only be issued when any criminal offence is under investigation, inquiry or trial. In the present case, when the suspension order was issued the petitioner was already acquitted. The suspension order, as such, is not sustainable and liable to be set aside and accordingly it is set aside. This petition stands disp **Sd/-** **Fakhruddin** **Judge**	
Rao/-		